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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 ELVA TERESA SELVESTER,

) Case No.: 2:20-cv-01536-GMN-EJY

13 Plaintiff,

) **UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE CERTIFIED
ADMINISTRATIVE RECORD AND ANSWER;
DECLARATIONS OF JEBBY RASPUTNIS AND
CHRISTIANNE VOEGELE; PROPOSED
ORDER**
) **(FIRST REQUEST)**

14 vs.

15 ANDREW SAUL,
16 Commissioner of Social Security,

17 Defendant.

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1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through
 2 his undersigned attorneys, hereby moves for a sixty-day extension of time to file the Certified
 3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s
 4 Complaint are due to be filed by November 17, 2020.
 5

6 In light of the global COVID-19 pandemic, the Social Security Administration (“SSA” or the
 7 “Agency”) has taken the unprecedented step of suspending in-office services to the public:
 8 <https://www.ssa.gov/coronavirus/>. The Agency is focusing on providing the most critical services by
 9 mail, phone and online to those most in need. SSA is also taking additional steps to protect its employees
 10 and help stop the spread of COVID-19, maximizing social distancing, including significantly limiting
 11 employee access to SSA facilities for health and safety only and has moved toward a temporary virtual
 12 work environment. Electronic processes allow some of SSA’s most critical work to continue with
 13 minimal interruption; other workloads have been suspended until the health crisis abates or the Agency is
 14 able to create new electronic business processes.
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16 For purposes of this particular case, the public health emergency pandemic has significantly
 17 impacted operations in the Social Security Administration’s Office of Appellate Operations (OAO) in
 18 Falls Church, Virginia. That office is responsible for physically producing the administrative record that
 19 is required to adjudicate the case under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C.
 20 § 405(g) and (h). *See* SSA Program Operations Manual System GN 03106.025, *available at*
 21 <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203106025>.
 22

23 As detailed in the attached declarations, beginning March 16, 2020, OAO’s staff members began
 24 to telework to protect employee health and prevent further spread of COVID-19. At that time, critical in-
 25 person physical tasks associated with preparing the administrative record could not be accomplished. For
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1 example, prior to the COVID-19 pandemic, to safeguard Personally Identifiable Information (PII), all
2 hearing recordings, which are part of the administrative record, were downloaded onto compact discs and
3 encrypted. OAO securely routed the encrypted discs to a private contractor through a daily pickup and
4 delivery service at the Official Duty Station (ODS) in Falls Church, Virginia. The private contractor
5 would transcribe the hearing recording and send the paper copy of the hearing transcript back to OAO.
6 OAO personnel would then scan the hearing transcript into the electronic record or place the hearing
7 transcript in the paper case file. Thereafter, OAO personnel would assemble the administrative record in
8 a prescribed order.

9
10 To ensure a continuity of operations, OAO has been actively pursuing mitigation efforts to allow
11 the remote preparation of administrative records. For cases in which the private contractors were already
12 in possession of hearing recordings for transcription, with the assistance of the Office of Acquisitions and
13 Grants (OAG), OAO received approval to receive these transcripts from the private contractors via
14 secured email, e.g., using password protection and redacted Social Security Numbers. In April 2020,
15 OAO began receiving such hearing transcripts from private contractors via secured email.

16
17 For cases in which OAO had not yet submitted recordings to the private contractors before March
18 16, 2020, OAO has been pursuing all available options to obtain transcriptions for these cases. In May
19 2020, OAO began encrypting hearing recordings and securely emailing them to the contractors for
20 transcription. Through the month of May, OAO and the contractors worked to resolve technical issues
21 that arose, particularly with large files. The process is functioning now, albeit at only half of normal
22 productivity.

Given the volume of pending cases, Defendant requests an extension in which to respond to the Complaint until January 16, 2021. If in sixty days the CAR is not prepared, the Commissioner will file a status report with the Court as to when he expects the CAR to be completed.

On November 12, 2020, the undersigned conferred with Plaintiff, who has no objection to the requested extension¹.

It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR and answer to Plaintiff's Complaint, through and including January 16, 2021.

Dated: November 16, 2020

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

/s/ Chantal R. Jenkins
Chantal R. Jenkins
Special Assistant United States Attorney

ORDER

IT IS SO ORDERED that Defendant's request for an extension of 60 days to file the Certified Administrative Record and Answer to Plaintiff's Complaint is GRANTED; provided, however, that no further extensions of time will be granted.

Elayna J. Zouchal
UNITED STATES MAGISTRATE JUDGE

DATED: November 17, 2020

¹ Defendant's counsel was unable to file the extension request at that time because there was no one in the office to serve Plaintiff. There are limited staff in the office due to covid restrictions.